

## REMARKS

Claims 1-22 were pending in the application prior to the outstanding Office Action.

The present response amends claims 3, 4 and 20, and adds new claims 23-26, leaving for the Examiner's consideration claims 1-26. Reconsideration of the rejections is requested.

### I. 35 USC §103 Rejections

Claims 1, 2, 8, 9, 19 and 20-22 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Weinberg (U.S. Pat. 5,814,135) in view of Weinberg (U.S. Pat. 5,484,472) and Ebara (Japan 58-27654). For at least the following reasons, Applicants respectfully request reconsideration and withdrawal of these rejections.

#### A. Claims 1, 2, 8 and 9

Claim 1 requires "a moisture retaining material adjacent said outlet vent; wherein said ion generator produces an airflow from said intake vent to said outlet vent, and wherein said moisture retaining material increases humidity in said air flow."

It was alleged in the Office Action that Ebara provides motivation for using a moisture retaining material in the manner claimed in claim 1. For at least the following reasons, Applicants respectfully disagree.

Claim 1 specifically requires "a moisture retaining material *adjacent said outlet vent*" that "increases humidity" in the "air flow from said intake vent to said outlet vent" produced by "said ion generator." In other words, claim 1 requires that the moisture retaining material is located adjacent to an outlet vent of an electro-kinetic air transporter conditioner to thereby increase humidity of air flow (created by an ion generator) from an inlet vent to the outlet vent. Even if Ebara provides general motivation for using a moisture retaining material to increase humidity, Ebara does not teach or suggest locating such a moisture retaining material adjacent to

an outlet vent of an electro-kinetic air transporter conditioner to thereby increase humidity of air flow from an inlet vent to the outlet vent, as is required by claim 1.

It clear from claim 1 that "said ion generator produces an air flow from said intake vent to said outlet vent" of "a portable housing", and that the "moisture retaining material" is "adjacent said outlet vent." Thus, the device of claim 1 uses an ion generator to create an airflow, and then increases the humidity of the ionized airflow by having a moisture retaining material adjacent the outlet. In contrast, it is clear from the Abstract and FIG. 3 of Ebara that Ebara first humidifies an air flow (created by a fan 4) and then ionizes the humidified air flow. Thus, one of ordinary skill in the art looking at Ebara would **not** be motivated to place a moisture retaining material adjacent an outlet, as is required by claim 1, to increase humidity in an already ionized air flow.

It is believed that it is beneficial to place the moisture retaining material adjacent the outlet vent (as opposed to at other locations) so as to maximize the humidity in the airflow exiting the device. Additionally, placing the moisture retaining material adjacent the outlet may reduce the possibility of undesirable surface discharges occurring at the first or second electrodes (of the electrode assembly). More specifically, it is believed that surface discharges are more likely to occur if air is humid, than if air is dry. Thus, by locating the moisture retaining material adjacent the outlet vent, as required by claim 1, the chances of producing surface discharges are reduced (as compared to placing the moisture retaining material at other locations, such as adjacent the inlet vent).

For at least the reasons discussed above, Applicants respectfully request that the 103(a) rejection of claim 1, and its dependent claims 2, 8 and 9 be withdrawn.

## B. Claim 19

Applicants respectfully assert that a *prima facie* case of obviousness has not been established with regard to claim 19. As indicated in MPEP § 2142, to establish a *prima facie*

case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Claim 19 requires a "housing including a detachable front member that includes said outlet vent; and a moisture retaining material also included in said detachable front member; wherein said detachable front member can be removed from said portable housing to allow said moisture retaining material to be easily wetted." Weinberg '135, Weinberg '472 and Ebara, alone or in combination, do not teach or suggest these claimed features. Additionally, there is absolutely no explanation in the Office Action of how these prior art references could possibly teach or suggest these features. Accordingly, Applicants respectfully request that the 103(a) rejection of claim 19 be withdrawn.

### C. Claims 20-22

Independent claim 20 has been amended to require a "housing including a detachable front member that includes said outlet vent; and a moisture retaining material also included in said detachable front member; wherein said detachable front member can be removed from said portable housing to allow said moisture retaining material to be easily wetted." For reasons similar to those discussed above with regards to claim 19, Applicants respectfully assert that claim 20, and its dependent claims 21-22, are patentable over the applied prior art references.

### 2. Non-Statutory Double Patenting Rejection

Claims 1-22 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims of U.S. Patent No. 6,632,407 in

view of Weinberg '472. While Applicants do not necessarily agree with this rejection, Applicants are timely filing a terminal disclaimer herewith to remove this rejection, as recommended in the Office Action. Since the only rejection of claims 3-7 and 10-18 was this non-statutory double patenting rejection, these claims should now be allowable.

3. **Conclusion**

In light of the above, it is respectfully requested that all outstanding rejections and objections be reconsidered and withdrawn. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time which may be required.

Respectfully submitted,

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